

# Zambia

	2015	2016		
<b>Internet Freedom Status</b>	Partly Free	Partly Free	<b>Population:</b>	16.2 million
Obstacles to Access (0-25)	11	11	<b>Internet Penetration 2015 (ITU):</b>	21 percent
Limits on Content (0-35)	12	10	<b>Social Media/ICT Apps Blocked:</b>	No
Violations of User Rights (0-40)	17	17	<b>Political/Social Content Blocked:</b>	No
<b>TOTAL* (0-100)</b>	<b>40</b>	<b>38</b>	<b>Bloggers/ICT Users Arrested:</b>	Yes
			<b>Press Freedom 2016 Status:</b>	Not Free

\* 0=most free, 100=least free

## Key Developments: June 2015 – May 2016

- There were no reports of blocking, filtering, or content removals compared to previous years when critical online news outlets were restricted under the preceding president (see **Limits on Content**).
- In January 2016, President Lungu signed into law the much-anticipated Constitution of Zambia (Amendment) Act of 2016, though the amendments lacked many of the provisions sought by citizens, including the protection of fundamental rights and freedoms (see **Legal Environment**).
- Digital activism was vibrant, helping rollback a government shutdown of two universities, while a video shared on WhatsApp and social media helped bring critical attention to the assault of a woman, leading police to seek out the perpetrators (see **Digital Activism**).
- The popular singer Pilato was arrested for a song widely shared on social media and WhatsApp that allegedly defamed President Edgar Lungu in June 2015. Charged with incitement, his case was dismissed in July 2015 (see **Prosecutions and Detentions for On-line Activities**).

## Introduction

Internet freedom in Zambia improved marginally during the coverage period due to less blocking incidents under the current administration of Edgar Lungu compared to the late and former President Michael Sata, who died in October 2014.

Sata's record on internet freedom was poor, characterized by the blocking of news websites from July 2013 to April 2014 and arrest of several journalists suspected of having an affiliation with the blocked news outlets. In contrast, there have been no websites blocked under President Lungu. Nonetheless, the current government started showing signs of intolerance towards criticism in the past year, arresting the popular singer Pilato for a song widely shared on social media and WhatsApp that allegedly defamed President Lungu in June 2015.

Despite some improvements due to less problematic issues compared to previous years, backsliding occurred in the aftermath of the contentious presidential elections in August 2016 (after this report's coverage period for FOTN scores), which saw the reelection of Edgar Lungu. Following protests that erupted among opposition supporters who accused the electoral commission of voter fraud, there were reports of mobile broadband network disruptions for 48 to 72 hours in opposition held regions of the country, leading to strong suspicions of deliberate government interference. The critical online news outlet *Zambian Watchdog* and its Facebook page were later shut down in September, reportedly after the authorities raided the offices of a local web hosting company in search of *Zambian Watchdog's* servers.

The August 2016 elections also sought voter approval of constitutional amendments that would enshrine fundamental rights, including protections for print, broadcast, and electronic media freedom. The referendum was initiated in response to the highly anticipated Constitution of Zambia (Amendment) Act of 2016 that was enacted by President Lungu in January 2016 but excluded many of the provisions sought by citizens such as the protection of fundamental rights and freedoms. Though the referendum was approved by 71 percent of voters, the vote failed to garner the minimum voter turnout threshold of 50 percent to validate the results.

Despite Zambia's middling internet freedom environment, citizens continued to be empowered by digital media, using it to pushback against government abuses and call for justice. Digital activism was vibrant in the past year, helping rollback a government shutdown of two universities, while a video shared on WhatsApp and social media helped bring critical attention to the assault of a woman, leading police to seek out the perpetrators.

## Obstacles to Access

*Internet and mobile access rose steadily but remained low compared to other countries in the region. Increased electricity load shedding, high mobile and Internet purchase costs, poor infrastructure, and a large urban-rural divide are considered as major obstacles to access.*

## Availability and Ease of Access

Zambia was among the early adopters of the Internet in sub-Saharan Africa with the installation of dial-up and satellite technology at the University of Zambia in the early 1990s, though access has

grown slowly ever since. Internet penetration increased incrementally the past year, growing from a rate of 17 percent in 2014 to 21 percent in 2015, according to the International Telecommunication Union (ITU).<sup>1</sup> Mobile phone usage is expanding more rapidly, reaching a penetration of nearly 75 percent in 2015, up from 67 percent the previous year,<sup>2</sup> as most Zambian internet users access the internet via their mobile devices. Despite increasing access, internet connection speeds remain slow, averaging 2.0 Mbps compared to a global average of 6.2 Mbps, according to Akamai's *State of the Internet* report.<sup>3</sup>

The costs of ICT ownership and access are very expensive and out of reach for the majority of citizens in Zambia, where the average minimum wage is approximately US\$47 per month.<sup>4</sup> Blackberry devices still remain the most popular internet-enabled mobile phones in Zambia due to cheap subscription fees, which cost as low as US\$5 per month for access. Nevertheless, high costs hinder most Zambians from accessing other the top Internet applications, with a standard smart phone costing about US\$200 while broadband subscriptions cost an average of US\$26 for 10 GB of data. Only 13.5 percent of people that own mobile phones have a smart phone. Further, less than 1 percent of Zambians access the internet from their homes via fixed-line broadband subscriptions, which cost an average of US\$26 as of February 2016.<sup>5</sup> Zambians also access the internet at cybercafes, which cost slightly less than US\$1 per hour. In recent years, however, cybercafes have become less popular as people increasingly access the internet via mobile devices.

While access to ICTs is steadily increasing, it is only widespread in urban areas. Access in rural areas has lagged behind due to the high costs of hardware and software, poor network coverage, and high levels of illiteracy. Erratic and expensive electricity also hinders access for rural areas, where less than 6 percent of residents have access to electricity,<sup>6</sup> and the government has lacked the resources needed to prioritize the development of ICT infrastructure in rural areas. Consequently, the urban-rural divide remains high, with 68 percent of the urban population having access to mobile phones, compared to 39 percent of the rural population.

## Restrictions on Connectivity

During the June 2015 to May 2016 coverage period, there were no reports of the Zambian government restricting access to the internet or mobile phone services. However, during presidential elections in August 2016, mobile broadband networks were reportedly disrupted for 48 to 72 hours in opposition held regions of the country, leading to strong suspicions of deliberate government interference.<sup>7</sup> The outage followed protests that erupted among opposition supporters who accused the electoral commission of voter fraud. Two mobile providers—MTN and Airtel—confirmed the disruptions but did not provide a reason, leaving it unclear whether the outage was ordered by the

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1 International Telecommunication Union, "Percentage of Individuals Using the Internet," 2000-2015, <http://bit.ly/1cblxxY>.

2 International Telecommunication Union, "Mobile-Cellular Subscriptions," 2000-2015, <http://bit.ly/1cblxxY>.

3 Akamai, "Broadband Adoption," map visualization, *State of the Internet Report*, <http://akamai.me/1LiS6KD>.

4 There has been a significant drop in the dollar equivalent to last year's report of \$75 due to the loss of value of the kwacha against the dollar. It must be noted that the minimum wage still stands at K540 equivalent to \$49 as of 20th February 2016.

5 ZICTA, "ICT survey report 2015 – Households and individuals," <https://www.zicta.zm/Views/Publications/2015ICTSURVEYREPORT.pdf>.

6 ZICTA, "ICT survey report 2015 – Households and individuals."

7 Nigel Gambanga, "Zambian government suspected of causing internet shutdown following outage in opposition strongholds," TechZim, August 18, 2016, <http://www.techzim.co.zw/2016/08/zambian-government-suspected-causing-internet-slowdown-shutdown-following-outage-opposition-strongholds/>

government.<sup>8</sup> Nonetheless, the subsequent banning of independent broadcast and radio outlets further strengthened suspicions that the disruptions were part of an overall strategy to crackdown on press freedom and freedom of expression during the election period.<sup>9</sup>

Partial state ownership over the country's fiber backbone and control over connections to the international internet may enable the government to restrict connectivity at will.<sup>10</sup> As a landlocked country, Zambia's national fiber backbone is provided by three operators: state-owned Zambia Telecommunications Ltd (Zamtel), state-owned Zambia Electricity Supply Corporation Ltd (ZESCO),<sup>11</sup> and privately-owned Copper belt Energy Corporation (CEC). Zamtel operates the fiber-optic connection to two international submarine cables: the WACS and Sat-3.<sup>12</sup> MTN and Airtel lease access to the undersea cables from Zamtel, while MTN also connects directly to the EASSy.<sup>13</sup> According to a July 2013 *Zambian Watchdog* report, the government may also control the country's internet exchange point (IXP), which is reportedly housed in the same building as state-owned Zamtel in Lusaka.<sup>14</sup>

## ICT Market

The Zambian market for ISPs is very competitive and characterized by a lack of a significant dominant player.<sup>15</sup> As of 2016, there are 23 registered ISPs, three of which are also the country's mobile phone providers: MTN, Airtel, and state-owned Zamtel.<sup>16</sup> All Internet and mobile service providers are privately owned, with the exception of Zamtel, which was renationalized in January 2012 under the directive of the late President Michael Sata.<sup>17</sup> Sata's predecessor had sold the 75 percent share of Zamtel to Lap Green in 2010 for US\$257 million.<sup>18</sup> While Zamtel has the smallest share in the mobile phone market,<sup>19</sup> it commands the largest share of Internet subscriptions, with over 60 percent of the market.<sup>20</sup>

## Regulatory Bodies

The Zambia Information and Communications Authority (ZICTA) is the regulatory body for the country's ICT sector. Established under the Information and Communication Technologies Act of 2009,

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8 Moses Karanja, Twitter post, August 19, 2016, [https://twitter.com/Mose\\_Karanja/status/766684089613185025](https://twitter.com/Mose_Karanja/status/766684089613185025)

9 Conor Gaffey, "Zambia: Three broadcasters shut down as opposition alleges media crackdown," Newsweek, August 23, 2016, <http://www.newsweek.com/zambia-three-independent-broadcasters-shut-down-opposition-alleges-media-492764>

10 According to the ITU, the gateway to the international internet in Zambia is fully liberalized and competitive. See, ITU, "Zambia Profile (Latest data available: 2013)," *ICT-Eye*, accessed August 1, 2016, <http://bit.ly/1NEnLHK>.

11 Michael Malakata, "ZESCO begins leasing fiber communication backbone," Network World, September 24, 2008, <http://bit.ly/1LcyRkN>.

12 Michael Malakata, "Zambia's Zamtel connects to WACS, Sat-3 undersea cables," PC Advisor, July 26, 2012, <http://bit.ly/1OxJLFC>.

13 "MTN Zambia to invest USD3 million on connection to EASSy," Tele Geography, March 29, 2012, <http://bit.ly/1k89kjF>.

14 "In bid to spy on citizens, Sata gives Chinese complete access to Zambia's military, OP files," *Zambian Watchdog*, July 23, 2013, <http://bit.ly/1LczMlf>.

15 Shuller Habeenzu, "Zambia ICT Sector Performance Review 2009/2010," (policy paper, Research ICT Africa, 2010) <http://bit.ly/1NK9LgU>.

16 ZICTA "Internet Service Provider," accessed February 10, 2015, <http://bit.ly/1MsuzmW>.

17 Sata "deemed it desirable to acquire back the 75 percent shareholding of Libya's Lap Green Network in Zamtel." George Chellah "Press Statement: ZAMTEL Nationalization," press release, January 24, 2012, <http://on.fb.me/1OxKlmp>.

18 Matthew Saltmarsh, "Privatization of Zambian Phone Company Degenerates into a Feud," *New York Times*, October 3, 2010, <http://nyti.ms/1VURg8z>.

19 "MTN Zambia is the country's largest mobile operator – ZICA," Lusaka Voice, March 2, 2015, <http://bit.ly/1KbWlT2>.

20 Deloitte, *Doing Business in Zambia – A unique flavour*, March 2013, <http://bit.ly/1NeSJUU>.

ZICTA is known to be generally autonomous in its decision-making, although the government has some ability to influence ZICTA's activities.<sup>21</sup> The Minister of Information and Broadcasting Services is mandated to oversee ZICTA's activities and appoint the members and chairperson of the ZICTA board.<sup>22</sup> The minister is also entitled to issue general directives, which the regulator is obligated to carry out.<sup>23</sup>

Some internet content is also regulated by the Independent Broadcasting Authority, which oversees the enforcement and compliance of regulations in broadcast programming. This includes programming that is streamed and published online by TV and radio stations.<sup>24</sup>

## Limits on Content

*There were no reports of blocking, filtering, or content removals during the coverage period. Digital activism helped rollback a government shutdown of two universities, while a video shared on WhatsApp and social media helped bring critical attention to the assault of a woman, leading police to seek out the perpetrators.*

## Blocking and Filtering

No websites were blocked during the June 2015 to May 2016 coverage period, and social media and communications platforms such as YouTube, Twitter, Facebook, WhatsApp, and international blog hosting services were freely available. Nevertheless, government officials and powerful business people often issued threats to shut down select websites and blogs.<sup>25</sup> In August 2015, for example, a wealthy banking magnate unsuccessfully sought legal action against the website hosting company GoDaddy to shut down the critical online news outlet *Zambia Reports*, which had been publishing allegedly defamatory reports about the businessman.<sup>26</sup>

Tests conducted by the Open Observatory of Network Interference (OONI) and Strathmore University's Centre for Intellectual Property and Information Technology Law (CIPIT) during the August 2016 election's period (after this report's coverage period for FOTN scores) found that 10 different websites were consistently inaccessible, though it was inconclusive whether the websites were blocked.<sup>27</sup> The sites affected included a forum on drugs, a pornography hub, and a dating website for LGBTI communities, which may be linked to the prohibition of homosexuality under Zambia's Penal Code.<sup>28</sup>

In 1996, Zambia became the first country in sub-Saharan Africa to censor online content when the government demanded the removal of a banned edition of *The Post* from the newspaper's website by threatening to hold the Internet service provider (ISP), Zamnet, criminally liable for the content.

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21 International Telecommunication Union, "Zambia Profile (Latest data available: 2013)."

22 First Schedule (Section 4), The Information and Communication Technologies, Act [No. 15 of 2009], <http://bit.ly/1KbWEx7>.

23 Information and Communication Technologies Act, No. 15 of 2009, Part XI, art 91, <http://bit.ly/1KbWEx7>; See also, Shuller Habeezu, "Zambia ICT Sector Performance Review 2009/2010," (policy paper, Research ICT Africa, 2010) <http://bit.ly/1NK9LgU>.

24 Independent Broadcasting Authority, "About Us," accessed August 1, 2016, <http://www.iba.org.zm/about-us.html>

25 Gershom Ndhlovu, "Rahjani Mathani petitions Zambia reports to shut down," Lusaka Voice, August 8, 2015, <http://lusakavoice.com/2015/08/08/rajan-mahtani-petitions-zambia-reports-to-be-shutdown/>

26 "Zambia Reports may be shut down permanently, Dr. Rajan Mahtani takes action!" Newswire, press release, August 11, 2015, <https://www.newswire.com/press-release/zambia-reports-may-be-shut-down-permanently-dr-rajan-mahtani>

27 Maria Xynou et al., "Zambia. Internet censorship during the 2016 general elections?" October 11, 2016, <https://ooni.torproject.org/post/zambia-election-monitoring/#findings>

28 Sections 155 through 157, <http://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf>

There were no other reported incidents of internet censorship until July 2013, when four independent online news outlets—*Zambia Watchdog*, *Zambia Reports*, *Barotse Post*, and *Radio Barotse*—were blocked until April 2014, purportedly by the government for their critical coverage of the Patriotic Front ruling party under President Michael Sata.<sup>29</sup> The government had previously tried to ban *Zambian Watchdog* in 2012.

## Content Removal

The government has been known to censor content by directing online media editors to remove material considered problematic or offensive upon request. However, the extent of this practice is unknown given the predominance of state-owned and progovernment news outlets in the country. Instances of takedown requests are likely unreported, while self-censorship may limit the volume of critical content that could be targeted.

In September 2016 (after this report's coverage period for FOTN scores), the critical online news outlet *Zambian Watchdog* and its Facebook page became completely inaccessible to all users, including outside Zambia, reportedly after the authorities raided the offices of a local web hosting company in search of *Zambian Watchdog*'s servers.<sup>30</sup> Though the government has not released an official statement about the issue, the shutdown followed weeks of post-election criticism by the news outlet, which had been blocked in the past (see "Blocking and Filtering"). It is uncertain whether the outlet's Facebook page was taken down by the company or its administrators. Both pages remain inaccessible as of October 2016.

Prior to this incident, the only other known case of content removal comes from *Zambia Reports*, who publicly admitted to complying with a government takedown request in its July 2013 open letter to the government, though the outlet did not reveal the nature of the content that was taken down or when it occurred.<sup>31</sup> Otherwise, intermediaries are not held liable for content under the 2009 Electronic Communications and Transactions Act.<sup>32</sup>

## Media, Diversity, and Content Manipulation

Online content producers have continued to face considerably less government pressure compared to their traditional media counterparts, though the majority of online news sources in Zambia are merely web versions of pro-government mainstream outlets. As a result, social media platforms and citizen journalists have emerged as important sources of information, and Zambians now recognize the parallel existence of official media and alternative voices from online sources. The Zambian blogosphere is vibrant, representing diverse viewpoints and opposition voices, and many mainstream journalists have turned to blogs to express themselves more freely. With the start of the digital migration process in June 2015, local content from mainstream media is now available online, greatly improving local media productions both online and off.

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29 Peter Adamu, "Zambia Reports, Watchdog 'Unblocked,'" *Zambia Reports*, April 4, 2014, <http://bit.ly/1KbWYfu>; "The Watchdog has been released," *Zambia Weekly*, March 27, 2014, <http://bit.ly/1X7wVPP>; "Zambia blocks third website: Barotse Post," *Zambian Watchdog*, September 10, 2013, <http://bit.ly/1MFdqLs>.

30 "The Plight of the Zambian Watchdog: Embattled Opposition News Site Goes Down," Global Voices (blog), October 11, 2016, <http://bit.ly/2eG86wc>

31 Editor, "Zambia Requested to Stop Blocking Access to Websites," *Zambia Reports*, July 25, 2013, <http://bit.ly/1Rdpkve>.

32 Electronic Communications and Transaction Act No. 21 of 2009, Part X, Limitation of Liability of Service Providers, <http://bit.ly/1Pk92TO>.

While blogs hosted on international platforms have proliferated in recent years, online publications face economic constraints that compromise their ability to remain financially sustainable. The government is the largest source of advertising revenue for traditional media outlets and has been known to withhold advertisements from critical outlets.<sup>33</sup> Moreover, private companies often do not advertise in news outlets that seem antagonistic to government policies out of fear of the potential repercussions.<sup>34</sup> These trends are likely mirrored online, though in general, online news platforms are much less developed than print and broadcast media. The two most popular independent online news outlets in Zambia—*Zambian Watchdog* and *Zambia Reports*—are both hosted abroad and receive advertising revenue from international businesses.

Growing government pressure on the media in recent years has created a climate of self-censorship among journalists, both on and offline. Online journalists and bloggers are increasingly choosing to write anonymously due to harassment, the threat of legal action, or both,<sup>35</sup> particularly on issues regarding politics and corruption involving government officials. Social media users tend to express themselves more freely online, but a growing belief that the government monitors social media activity has made users more cautious in recent years.<sup>36</sup> Meanwhile, pro-government trolls are becoming increasingly common on social media platforms such as Facebook, typically flooding posts that are critical of the government with insults and comments on unrelated issues.<sup>37</sup> Some observers suspect that the government may be paying the trolls to disseminate pro-government propaganda.<sup>38</sup>

## Digital Activism

Social media and communications platforms, particularly Facebook and WhatsApp, have played an important role mobilizing Zambian citizens around a variety of social and economic issues, such as land reform, the mining industry, education, social economic injustices and taxes.

In response to the shutdown of the University of Zambia and the Copperbelt University by the government due to student protests in February 2016, one of Zambia's musicians popularly known as Pilato produced and released a song in support of the student protesters.<sup>39</sup> Pilato announced the release of the song on his Facebook page and disseminated the song through WhatsApp, urging people to forward the song. The digital activism inspired by Pilato's song ultimately compelled the government to reopen the universities in April 2016.

In June 2016, WhatsApp and social media helped bring critical attention to the assault of a woman by a group of men. The video was shot on a mobile phone and widely circulated on WhatsApp and social media platforms, eventually attracting the attention of police who arrested the perpetrators.<sup>40</sup>

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33 Freedom House, "Zambia," *Freedom of the Press 2014*, <http://www.freedomhouse.org/report/freedom-press/2014/zambia>.

34 "Zambia 2013," African Media Barometer (Friedrich-Ebert-Stiftung: fesmedia Africa, 2013).

35 "Zambia 2013," African Media Barometer (Friedrich-Ebert-Stiftung: fesmedia Africa, 2013).

36 Catherine de Lange, "Journalism in Zambia: Self-Censorship, Blocked Websites, and Social Media Monitoring," International Reporting Project, Johns Hopkins University, July 26, 2013, <http://bit.ly/1MFfQJQ>.

37 *Zambian Economist*, Facebook Post, July 12, 2014, <http://on.fb.me/1GIYKED>.

38 Evans Mulenga, "Zambia's Growing Censorship Problem," *Zambia Reports*, May 6, 2014, <http://bit.ly/1jriYQu>.

39 Government on 3rd February closed down CBU and UNZA after student protests for meal and book allowances. See, "Kaingu closes UNZA, CBU indefinitely," *Lusaka Times*, February 3, 2016, <http://bit.ly/2frgvTA>

40 The video of the incident was circulated on WhatsApp and shared on social media platforms. See: "Brutal assault, sexual abuse video goes viral," *Lusaka Times*, July 2, 2016, <http://lusakavoice.com/2016/07/02/brutal-assault-sexual-abuse-video-goes-viral/>; YouTube video: <https://www.youtube.com/watch?v=IDYRjgdudBs>

## Violations of User Rights

*In January 2016, President Lungu signed into law the much-anticipated Constitution of Zambia (Amendment) Act of 2016, though the amendments lacked many of the provisions sought by citizens, including the protection of fundamental rights and freedoms. The Zambian government was less restrictive on online journalists during this report's coverage period but started showing signs of intolerance towards criticism, arresting the popular singer Pilato for a song widely shared on social media and WhatsApp that allegedly defamed President Lungu in June 2015.*

### Legal Environment

President Lungu enacted the Constitution of Zambia (Amendment) Act of 2016 in January, implementing a new constitution that had been in the works since the early 2000s.<sup>41</sup> The new amendments stemmed from a process that started in 2011 under then President Michael Sata. While many drafts emerged from local conferences that sought multi-stakeholder engagement from citizens and civil society organizations, the January amendments approved by parliament and the president lacked many of the provisions sought by citizens, including the protection of fundamental rights and freedoms.<sup>42</sup> A constitutional referendum was subsequently held in August 2016 alongside general elections to seek voter approval of new amendments to the constitution's "Bill of Rights," which provides specific protections for print, broadcast, and electronic media freedom, and explicitly prohibits the government from exercising control or interfering with media activities.<sup>43</sup> Though approved by 71 percent of voters, the referendum vote failed to garner the minimum voter turnout threshold of 50 percent to validate the results.<sup>44</sup>

Without constitutional protections, freedom of expression and the media are limited by clauses in the penal code that criminalize defamation of the president<sup>45</sup> and give the president "absolute discretion" to ban publications regarded as "contrary to the public interest."<sup>46</sup> In July 2016, the Minister of Information and Broadcasting was reportedly put on the record stating in reference to coverage of the political opposition that "it was important to censor the information that would be disseminated to the public to avoid raising alarm."<sup>47</sup> Concerned observers took the minister's statement to mean that public media must only cover the ruling party and ignore opposition political parties because the information they present is not important.<sup>48</sup>

Compared to specific restrictions on the traditional media, there are no restrictive laws related to the regulation of ICTs and online activities, though government officials often state their intentions to introduce legislation regulating online media, citing the problems of "internet abuse" and cybercrime.

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41 "President Lungu ushers news constitution, calls for new approach to politics," Lusaka Times, January 5, 2016, <https://www.lusakatimes.com/2016/01/05/president-lungu-ushers-in-a-new-constitution-calls-for-a-new-approach-to-politics/>

42 "Zambia constitutional amendments do not protect basic rights," Freedom House, press release, January 6, 2016, <https://freedomhouse.org/article/zambia-constitutional-amendments-do-not-protect-basic-rights>

43 Constitution of Zambia Amendment Bill of Rights, June 2016, <http://bit.ly/2eAonTu>

44 "Referendum vote flops, fails to meet threshold," Lusaka Times, August 19, 2016, <http://bit.ly/2fGW1K1>

45 The Penal Code Act, Chapter 7, art. 69, <http://bit.ly/2fcA9ln>

46 The Penal Code Act, Chapter 7, art. 53.

47 Michael Malakata, "Zambia rejects new constitution permitting online news freedom," PC Advisor, April 11, 2014, <http://bit.ly/1MFhETH>.

48 "Censorship is crucial in giving the readers the correct information-Kambwili," Lusaka Times, August 4, 2016, <https://www.lusakatimes.com/2016/08/04/censorship-crucial-giving-readers-correct-information-kambwili/>

Judicial independence is guaranteed in the new amended constitution but is not respected in practice; it is also undermined by other laws that allow for executive interference in Zambia's justice system. Notably, the Service Commissions Act, which establishes a Judicial Service Commission to advise the president on judicial appointments, provides the president with the power to give the commission "general directions as the President may consider, necessary" and obliges the commission to comply with the directions.<sup>49</sup>

## Prosecutions and Detentions for Online Activities

The Zambian authorities periodically arrest and/or prosecute citizens for their online activities. In June 2015, the singer Chama Fumba popularly known as "Pilato" was arrested for a song criticizing the president that went viral on Facebook and WhatsApp. Officials accused Pilato of defaming President Edgar Lungu through lyrics that depicted a man named Lungu as incompetent and an alcoholic.<sup>50</sup> He was charged with provoking public unrest, which would have carried a prison sentence of up to six months and fine if convicted.<sup>51</sup> Prosecutors dropped the case in July 2015.<sup>52</sup>

## Surveillance, Privacy, and Anonymity

Little is known about the Zambian government's surveillance practices and capabilities. In July 2015, email leaks from the Italian surveillance firm Hacking Team revealed that the company may have sold sophisticated spyware known as Remote Control System (RCS) to the Zambian authorities.<sup>53</sup> While the leaked emails did not confirm the sale, they point to the government's intent to acquire such technologies that can monitor and intercept user communications.

The Electronic Communications and Transaction Act of 2009 details conditions for the lawful interception of communications,<sup>54</sup> though several provisions give the government sweeping surveillance powers with little to no oversight. Article 77 requires service providers to install both hardware and software that enable communications to be intercepted in "real-time" and "full-time" upon request by law enforcement agencies or under a court order. Service providers are also required to transmit all intercepted communications to a Central Monitoring and Coordination Centre managed by the communications ministry.<sup>55</sup> Service providers that fail to comply with the requirements could be held liable to a fine, imprisonment of up to five years, or both.

While surveillance abuse has not been reported under the current government, the late President Michael Sata's previous administration was often accused of conducting extensive illegal surveillance

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49 Service Commissions Act, Cap 259, Part II, Service Commissions, <http://bit.ly/1hHnYwq>; See also: Richard Lee, "Executive interference undermines judiciary in Zambia," Open Society Initiative for Southern Africa (blog), August 27, 2013, <http://bit.ly/1KbYIoY>.

50 "Singer Pilato detained and prosecuted for song about president," Free Muse, June 11, 2015, <http://freemuse.org/archives/10228>

51 "Zambian police arrest musician mocking president," Reuters, June 8, 2015, <http://reut.rs/2epYkLk>

52 "Zambian singer accused of lampooning president as drunk incompetent walks free," Mail & Guardian, July 13, 2015, <http://mgafrica.com/article/2015-07-13-zambian-singer-accused-of-lampooning-president-as-drunk-incompetent-walks-free>

53 Ryan Gallagher, Twitter Post, July 6, 2015, 1:10 PM, <http://bit.ly/10GeQoW>

54 Electronic Communications and Transaction Act No. 21 of 2009, Part XI, Interception of Communication, [http://www.zicta.zm/Downloads/The%20Acts%20and%20SIs/ect\\_act\\_2009.pdf](http://www.zicta.zm/Downloads/The%20Acts%20and%20SIs/ect_act_2009.pdf)

55 Articles 7, Electronic Communications and Transaction Act No. 21 of 2009, Part XI, Interception of Communication.

of citizens' ICT activities, such as the phone tapping of senior government officials who fell out of the ruling party's favor,<sup>56</sup> civil society leaders,<sup>57</sup> and journalists.<sup>58</sup>

The ability for Zambians to communicate anonymously through digital media is compromised by SIM card registration requirements instituted in September 2012.<sup>59</sup> Registration requires an original and valid identity card such as a national registration card presented in person to a registration agent at a mobile service provider.<sup>60</sup> While the government stated that the registration requirements were for the purposes of combatting crime,<sup>61</sup> investigative reports from 2012 have alleged that subscriber details may be passed directly to the secret service for the creation of a mobile phone user database.<sup>62</sup>

Registration for the .zm country code top-level domain (ccTLD) is managed by ZICTA as provided for under the 2009 Electronic Communications and Transaction Act, which may compromise the anonymity of .zm website owners given the murky independence of the regulatory authority.<sup>63</sup> The act also provides a government minister the authority to create statutory agreements that determine further requirements for domain name registration, in addition to "the circumstances and manner in which registrations may be assigned, registered, renewed, refused, or revoked."<sup>64</sup> Such direct oversight of local web domains may allow the government to access user data belonging to local content creators and hosts.

## Intimidation and Violence

Online journalists are periodically targeted for harassment and intimidation, while media workers in general face a climate of intimidation for their independent reporting, though there have been no reported incidents under current President Lungu who took office in January 2015. The last reported incidents of harassment occurred between June and September 2013, when the previous government targeted individuals suspected of writing anonymously for the critical online news outlets, *Zambian Watchdog* and *Zambia Reports*, including Thomas Zyambo, Clayson Hamasaka, and Wilson Pondamali who were all harassed and subsequently arrested. Zyambo was reportedly threatened and physically assaulted by President Sata's son for unknown reasons in March 2014.<sup>65</sup> Pondamali was attacked in April 2014 at a public event, allegedly by government "thugs" who took off with his digital equipment.<sup>66</sup>

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56 Evans Mulenga, "Sata Is Listening to Your Conversation," *Zambia Reports*, October 9, 2013, <http://bit.ly/1X7BJVc>; Rebecca Chao, "Zambian President Admits to Spying on Fellow Officials," *TechPresident* (blog), October 16, 2013, <http://bit.ly/1GJ08ak>.

57 Peter Adamu, "Sata is Tapping Phones, says Fr Bwalya," *Zambia Reports*, January 23, 2014, <http://bit.ly/1VVijfq>.

58 "Airtel Zambia Facing Phone Tapping Allegations," *AfricaMetro*, June 18, 2015, <http://bit.ly/1VUX2Hh>.

59 "Zambia switches off 2.4 million unregistered SIMs," *Lusaka Voice*, February 6, 2014, <http://bit.ly/1k8g15g>.

60 MTN Zambia, "SIM Registration," accessed September 25, 2014, <http://bit.ly/1NKgCXx>.

61 Gershom Ndhlovu, "Zambia: SIM Registration is For Security Reasons," *Global Voices* (blog), November 30, 2012, <http://bit.ly/1ZGFOC9>.

62 "OP compiling Database from simcard registration exercise," *Zambian Watchdog*, November 13, 2012, <http://bit.ly/1VUY9GZ>. An official from ZICTA also publicly stated in November 2012 that registration would "enable law enforcement agencies [to] create a database to help identify the mobile SIM card owners," according to a news report in *Lusaka Times*. See, "SIM card registration is not a political issue-ZICTA," *Lusaka Times*, November 25, 2012, <http://bit.ly/1LcFfZ8>.

63 Electronic Communications and Transaction Act No. 21 of 2009, Part IX, Domain Name Regulation.

64 Electronic Communications and Transaction Act No. 21 of 2009, Part IX, Domain Name Regulation, art. 52.

65 Gershom Ndhlovu, "Zambia: President's Son Warns Journalist, 'We Will Kill You,'" *Global Voices* (blog), March 12, 2014, <http://bit.ly/1GgGBTH>.

66 "PF thugs beat up Journalist Wilson Pondamali," *Zambian Watchdog*, April 11, 2014, <http://bit.ly/1NKh8oB>.

## Technical Attacks

Government-sponsored technical attacks against opposition activists, ordinary users, or online journalists are not common in Zambia and were not reported during the coverage period. The last reported technical attack was reported in April 2014 when the website of the Media Institute for Southern Africa (MISA) was hacked alongside a number of government websites by hackers from the Middle East.<sup>67</sup> *Zambian Watchdog* was last attacked with a DDoS attack in May 2012 that brought the site down for about eight hours.<sup>68</sup>

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67 Limbikani Makani, "100+ Zambian websites hacked & defaced: Spar, Postdotnet, SEC, Home Affairs, Ministry of Finance," *Tech Trends*, April 15, 2014, <http://bit.ly/1MFmY9c>.

68 Gershom Ndhlovu, "Zambia: Citizen News Website Hacked," *Global Voices*, May 13, 2012, <http://bit.ly/1VUYw45>.